



DEPARTMENT OF THE NAVY
BASE REALIGNMENT AND CLOSURE
PROGRAM MANAGEMENT OFFICE WEST
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SAN DIEGO, CA 92147

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Ser BPMOW.els/032
January 30, 2020

Ms. Lauren Starnes
Husch Blackwell LLP
736 Georgia Avenue, Suite 300
Chattanooga, TN 37402

Dear Ms. Starnes:

This letter responds to your Freedom of Information Act request of April 9, 2019 in which you requested various records concerning the former Marine Corps Air Station (MCAS) El Toro. Your request was received by this office on June 4, 2019 and assigned Case File Number DON-NAVY-2019-005713.

On August 14, 2019, we reached agreement on the scope of your request as follows:

1. Correspondence between Navy and Heritage Field and/or City of Irvine regarding environmental conditions of PRL 354, PRL 886/887, and MSC JP5.
2. Correspondence between Navy and regulatory agencies discussing PRL 354, PRL 886/887, MSC JP5, IRP 19, IRP 25, Carveout II-M, and Carveout II-K.
3. Reports documenting environmental conditions of PRL 354, PRL 886/887, MSC JP5, IRP 19, IRP 25, Carveout II-M, and Carveout II-K.
4. Documents and communications with the lessee(s) regarding PERF(s) at PRL 354.

We further agreed that the date range for Items 1 and 4 is the date the FOSL was executed (August 3, 2004) through the date the parcel was transferred (April 30, 2010 for Carve-Out II-M, and April 7, 2011 for Carve-Out II-K), and the date range for Items 2 and 3 is from the date of installation closure (July 2, 1999) to present (August 14, 2019, the date our records search began). You requested that we prioritize our search and review for Item 1 first with a \$400 fee limit for our review and processing, and provide a fee estimate for Items 2-4 before processing those items.

This letter provides a final determination on your FOIA request with regard to Item 1. A search for responsive records has been completed and a total of 11 responsive records were identified. Four (4) of these are available in the online Administrative Record at https://www.navfac.navy.mil/products_and_services/ev/products_and_services/env_restoration/administrative_records.html?fromDate=DD-MON-YYYY&toDate=DD-MON-YYYY&p_instln_id=EL_TORO_MCAS&basic=&title=&sites=&author=&keywords=. These 4 responsive records are listed in the table below:

Documents Responsive to Item # 1, and Available in the Online Administrative Record

Document #	Date	Title
000003	09-29-2009	REQUEST FOR USE OF SURFICIAL SOILS LOCATED ON LENNAR PROPERTY
004302	02-14-2008	LETTER OF NOTIFICATION REGARDING THE NEED TO CONDUCT ENVIRONMENTAL INVESTIGATION ACTIVITIES AT THE FORMER SKEET RANGE
004573	04-15-2009	15 APRIL 2009 95TH RESTORATION ADVISORY BOARD (RAB) MEETING MATERIALS (INCLUDES 15 APRIL 2009 RAB MEETING MAILER, AGENDA, AND VARIOUS HANDOUTS)
004641	08-19-2009	19 AUGUST 2009 RESTORATION ADVISORY BOARD (RAB) MEETING MATERIALS [CD COPY ENCLOSED] {INCLUDES AGENDA, DRAFT 15 APRIL 2009 RAB MEETING MINUTES, SIGN-IN SHEET, AND VARIOUS HANDOUTS}

The remaining 7 records responsive to Item 1 will be reviewed for information that may be exempt from disclosure under the FOIA. Certain responsive records may be wholly or partially exempt from disclosure pursuant to the following exemptions to FOIA: FOIA Exemption 4 [5 U.S.C § 552(b)(4)] which exempts from disclosure trade secrets and commercial or financial information obtained from a person that is privileged or confidential; FOIA Exemption 5 [5 U.S.C. § 552(b)(5)] which exempts from disclosure records that reflect the Navy's internal deliberations the release of which could be harmful by discouraging the free and frank exchange of opinions or potentially result in public confusion by disclosing information that is not consistent with the outcome of the deliberative process; and FOIA Exemption 6 [5 U.S.C. § 552(b)(6)] which exempts from disclosure personal information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Responsive and non-exempt portions of records will be released to you as our review is completed. You have agreed to pay up to \$400.00 for the review and processing of Item 1 of your request. If we find that this will not cover the cost of processing your request, we will contact you before we incur additional charges. You can then either agree to pay the additional amount or narrow the scope of your request. No payment is due at this time. A request for payment of fees will be included when the remaining records that are responsive to Item 1 are released to you.

We are continuing our search for records responsive to Items 2 through 4. We will provide a cost estimate for the review and processing of these records when the search is completed.

In view of the above, you may consider this to be an adverse determination that may be appealed. Since you have created an account in FOIA online, you may submit an appeal directly within the web-based system. To do this, you would log in to your account, retrieve your original request, and then click on the "Create Appeal" tab in the left-hand column. The basic

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information from your request will be duplicated for you, and then you can type in the basis of your appeal. If you prefer to use regular mail, you may submit an appeal to:

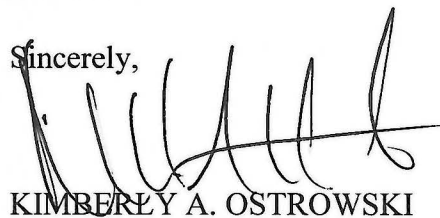
The Department of the Navy
Office of the General Counsel (ATTN: FOIA APPEALS)
1000 Navy Pentagon, Room 5A532
Washington, DC 20350-1000

Your appeal, if any, must be transmitted (if appealing by FOIA ONLINE) or postmarked (if appealing by mail) within 90 calendar days from the date of this letter. Please be advised that a FOIA requestor has the burden of proving timely submission of an appeal. Additionally, you must include in your appeal a statement indicating why you believe your appeal should be granted, and you are encouraged to also include a copy of your initial request and a copy of this letter.

For any further assistance regarding any aspect of your request, you have the right to contact the Department of the Navy FOIA Public Liaison, Mr. Christopher Julka, at Christopher.A.Julka@navy.mil or 703-697-0031. Additionally, you have the right to contact the Office of Government Information Services (OGIS) to inquire about the FOIA mediation services they offer. The contact information for OGIS is: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-01, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Any questions concerning this matter should be directed to Ms. Erica Spinelli who may be contacted at erica.spinelli@navy.mil or at 619-524-5926.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kimberly A. Ostrowski', written over a horizontal line.

KIMBERLY A. OSTROWSKI
Director